



City of Foley, AL

The City of Foley Public
Facilities Cooperative
District
407 East Laurel Avenue
Foley, Alabama 36535

Meeting Minutes - Final

Public Facilities Cooperative District

Monday, May 2, 2016

2:30 PM

Conference Room

Call to Order

Chairman Charles J. Ebert, III called the meeting to order at at 2:30 p.m.

Roll Call

All Board members were present. Others present were as follows: Vickey Southern, Mike Thompson, Jeff Rouzie, and Sue Steigerwald.

Present: 7 - Charles Ebert III, David Rauch, Roderick Burkle, Clyde Abrams Jr., Rick Blackwell, Ralph Hellmich and Vera Quaites

Approval of the Minutes

[16-0230](#)

04-20-2016 PFCD MINUTES

Attachments: [04-20-2016 PFCD MINUTES.pdf](#)

A motion was made by Secretary/Treasurer Roderick Burkle, seconded by Member Vera Quaites, that the Minutes be approved. The motion carried by an unanimous vote.

Old Business

[16-0252](#)

A Resolution Electing Officers

A motion was made by Vice Chair David Rauch, seconded by Member Ralph Hellmich, that this Resolution be adopted. The motion carried by an unanimous vote.

Enactment No: 16-0127-PFCD

[16-0253](#)

A RESOLUTION IMPOSING PROJECT USER FEES AND AUTHORIZING A NOTE PAYABLE THEREFROM

A motion was made by Vice Chair David Rauch, seconded by Member Ralph Hellmich, that this Resolution be adopted.

Mr. Rauch asked for clarification on what was being approved on this user fee. Mr. Rouzie reported Phase One consists of Academy Sports and Ross Dress for Less and the shops between the two and this was approved in the prior User Fee that was approved. Phase Two consists of Pet Smart and going

south towards the concrete plant and this is what is being considered today. There is a 35% of the capital investment that goes back to Burton Properties over a 15 year period. Whatever Burton Properties invests will be 35% of their capital investment. That total is unknown at this time because we don't know what the total number of boxes are because some of the boxes have made commitments, others have not, and some are still in the works. This does not cover a grocery store because food is not covered by a User Fee. The total amount of the investments will depend on the number of boxes.

Mr. Burkle asked what qualifies in terms of the PFCD as a capital investment. The money invested by Burton Properties, which is anticipated to be approximately \$10 million or more depending on the boxes. The capital investment is Burton's expectation of recovering their investment (development of property, etc.) through earnings (rental contracts/leases) by the business over the 15 year period. Mr. Burton stated in a previous meeting that he would prefer the 15 year period be longer but the bank limits the term in relation to the term of the loan. Basically it is 35% of Burton's total Capital Investment, which we won't know the total until the property is completely built out because as stated above some of the big boxes have already made commitments and signed their leases, some have not made that commitment and others are still being worked on.

Mr. Burkle expressed his concern about what the user fees were being used for, such as a User Fee to help businesses get started for one to three years. Mr. Thompson reported that for some businesses one to three years is a reasonable amount of time. Mr. Hellmich reported Krispy Kreme was reasonable for five years and that is why the District approved a User Fee for five years.

Mrs. Southern reported the User Fee being considered today is for 110,000 sq. ft. Mr. Rouzie reported it includes the old car lot and does not include the out parcels in the front as they will have to come to the District individually. Phase 1 is everything Burton purchased from Mitchell and Phase 2 is the additional property that goes almost to the concrete plant. Mr. Hellmich reported that you cannot put a User Fee on pharmacies or food. Mr. Rouzie reported he will be with two national tenants this week and a third next week. There will be four to five in this next phase depending on the grocery store and then there are three out parcels.

Mr. Burkle asked what if something happened and the developer sells of his investment or something happens and the boxes that bring in that pay the revenues back or pay him back or they don't come to fruition or they don't work out? Mr. Thompson reported if they don't come to fruition or don't work out or all go belly up then it's no harm no foul; because if they go belly up you aren't collecting a user fee to give to the developer.

Mr. Burkle stated that when the term expires the District renews the term. Mr. Hellmich reported Krispy Kreme's term expired in October and it has gone away. Wolf Bay Lodge is gone because it has expired. There maybe some activity whereby Wolf Bay Lodge may be purchased from the City and if that is the case they might come back to the District but that has not happened. Tanger is the only one with a User Fee that has been extended.

Mr. Rauch reported a Lowe's or Home Depot are technically obsolete from a

value standpoint when they are built. The only thing that will go in there will be another Home Depot or Lowe's type business. We should keep in the back of our minds the type of buildings that are being constructed and are they releasable, especially if we are putting money back into the development itself. As far as the fee issue itself that is their risk. Mr. Thompson reported we made the decision to put money into the Academy deal to get the ball rolling because we felt that if we got an Academy in and Hobby Lobby then these other big boxes would follow suit. They are kind of like sheep. They follow the herd. We felt that if we got a couple of big boxes in Foley the rest would follow. His argument was to sweeten the pot in order to move forward with Foley being the node for shopping in our town. Now when big boxes look at Baldwin County they look at Foley because Foley has Hobby Lobby and Foley has Academy and Home Depot and Lowe's, etc., etc. So I don't think we are at a point that we need to put cash into any deal. But even the cash deal we got we are reimbursing ourselves over time through the Cooperative District. We did that risk because Academy could go belly up tomorrow and we would be out whatever we haven't collected and that was a measured risk that we took to ensure that Foley was the retail node of our County. Mr. Rauch reported that on the Hobby Lobby and Big Lots deal we abated the sales taxes for a given period of time until that is paid back. We are paying ourselves back through the user fees and sales taxes. On the Academy he didn't see as something that would be a functionally as obsolete. A Walmart building would be obsolete. Mr. Thompson reported after 15 years a big box doesn't really go belly up. They make a decision to reup or move somewhere else if the market has changed. Our hope is that when year 15 comes for Hobby Lobby, Big Lots, or Academy that they want to reup and that Foley is the place they want to be.

In reviewing the documentation Mr. Abrams noticed that on page 2 under Pledged Project User Fees it states one percent of the gross amount of Project User Fees collected for each calendar month. It appears this should state 5% instead of 1%. The administrative fee is 5% of the 1% fee. Pages 2 and 4 Section 5 (c) need to be changed. This was a good catch by Mr. Abrams.

Mr. Rauch clarified the user fee in this agreement is for \$3.5 million maximum and he would have to come back and we would have to modify the agreement if he wanted to add more boxes for this acreage. Mr. Burkle reported that was why he was asked based on the last discussion because it was noted at \$12 million instead of \$3.5 million.

Mr. Rauch asked if we could redefine the description to Phase 2. Mrs. Southern reported the Phase 2 is what the City is calling Phase 2 but not what Burton Properties is calling Phase 2. She recommended not calling it Phase 2. Mr. Rouzie reported that he sent Mr. Hosch the site plan and Pet Smart is already committed. If you go to Pet Smart south to where it is highlighted, which is approximately 110,000 sq. ft.

Mr. Rauch made a motion to amend his motion to redefine the description and correct the 1% to 5% under Pledged Project User Fees and under Section 5 (c). Mr. Hellmich seconded the amended motion.

The first motion on the floor was passed by an unanimous vote.

The second motion on the floor passed by an unanimous vote.

Enactment No: 16-0128-PFCD

Executive Session

Mr. Thompson reported there are two letters for two potential economic development projects. The Cooperative District is allowed to discuss in Executive Session matters involving trade or commerce, such as incentives, that the Cooperative District is competing with others for this project. There are two potential projects and Jeff Rouzie, Economic Development Director, is in agreement that the District needs to go into Executive Session in order to protect these deals. Mr. Rouzie reported the Executive Session would last approximately 30 minutes and this is just an information session and the District would not have to come out to take a vote. Mr. Hellmich reported based on matters he made a motion to go into Executive Session based upon the letters submitted. Mr. Abrams seconded the motion. Mrs. Southern took the following voice vote: Mr. Ebert, Aye; Mr. Hellmich, aye; Mr. Burkle, aye; Mr. Rauch, aye; Mrs. Quaites, aye; Mr. Abrams, aye and Mr. Blackwell, aye. There is unanimous consent to go into Executive Session. The meeting recessed to go into Executive Session at 3:10 p.m.

Chairman Ebert called the meeting back to order at 4:46 p.m. All District members were present. Others present were Vickey Southern, Mike Thompson, Jeff Rouzie, and Sue Steigerwald. There were no comments.

Visitor Comments

There were no visitor comments.

Adjourn

A motion was made by Member Ralph Hellmich, seconded by Vice Chair David Rauch, that this meeting be adjourned. The motion carried by an unanimous vote and adjourned at 4:47 p.m.